

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
	)	
v.	)	CRIMINAL NO. 04-10162-DPW
	)	
CHARLES A. GUIDA,	)	
Defendant.	)	

**MOTION FOR FINAL ORDER OF FORFEITURE**

The United States of America, by its Attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, respectfully moves that this Court issue a Final Order of Forfeiture in the above-captioned case, pursuant to Title 18, United States Code, Section 2253(a). In support thereof, the United States sets forth the following:

1. On or about May 25, 2004, a One-Count Information charging Charles A. Guida ("the Defendant") with Possession of Child Pornography, in violation of 18 U.S.C. §2252A(a)(4)(B) was entered with the Court. The Information also included a Criminal Forfeiture allegation, pursuant to 18 U.S.C. §2253(a).

2. The Forfeiture Allegation stated that, upon conviction, certain property of the Defendant is subject to forfeiture to the United States pursuant to 18 U.S.C. §2253(a), as property constituting any and all matter which contains visual depictions produced, transported, shipped or received in violation of 18 U.S.C. §§2252 and/or 2252A, any property constituting or derived from any proceeds the Defendant obtained directly or indirectly as

a result of the violations charged in the Information, and any and all property used or intended to be used in any manner or part to commit and to promote the commission of the aforesaid violations, including, but not limited to:

One Sony Computer PCV-RX650 CPU, seized from the Defendant's residence on October 27, 2003 (the "Computer Equipment").

3. On or about June 1, 2004, the Defendant entered a guilty plea to Count One of the Information, pursuant to a written plea agreement, whereby the Defendant agreed that he would forfeit the Computer Equipment to the United States. This Court accepted the Defendant's plea.

4. On or about August 25, 2004, the United States filed a Motion for a Preliminary Order of Forfeiture, seeking forfeiture of the Computer Equipment, and on September 7, 2004 this Court entered an Electronic Order granting the Motion for a Preliminary Order of Forfeiture.

5. On or about September 7, 2004, this Court sentenced the Defendant to 27 months' imprisonment, 36 months' supervised release, and ordered the Defendant to forfeit the Computer Equipment to the United States pursuant to the Preliminary Order of Forfeiture. The forfeiture was included in the written Judgment.

6. On or about September 14, 2004, the Defendant filed a Notice of Appeal from the Final Judgment imposed on September 7, 2004.

7. On or about March 24, 2005, the First Circuit Court of Appeals affirmed the Defendant's conviction, but vacated his sentence, and remanded the case for re-sentencing in light of United States v. Booker, 125 S. Ct. 738 (2005).

8. On or about March 25, 2005, this Court endorsed an Amended Judgment re-sentencing the Defendant to 18 months' imprisonment, and 36 months' supervised release. The forfeiture of the Computer Equipment was included in the judgment.

9. Pursuant to the Preliminary Order of Forfeiture, on or about October 13, 2005, October 20, 2005, and October 27, 2005<sup>1</sup>, a Notice of Order of Forfeiture was published in the Boston Herald Newspaper. Pursuant to 18 U.S.C. §2253(m), the Defendant was noticed by certified mail on October 11, 2005, and Charles P. McGinty, Esq., as counsel, was noticed by certified mail on October 10, 2005.

10. To date, no claims of interest in the Computer Equipment have been filed with the Court and the time within which to do so expired today, November 28, 2005, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

WHEREFORE, the United States respectfully requests that this Court enter a Final Order of Forfeiture against the Computer

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<sup>1</sup> The delay in publishing the Notice of Forfeiture apparently was the result of a delay in the United States Marshal Service obtaining custody of the Computer Equipment from the United States Postal Service.

Equipment pursuant to Title 18, United States Code, Section 2253(a). A Proposed Order is submitted herewith for the convenience of the Court.

Respectfully submitted,  
MICHAEL J. SULLIVAN  
United States Attorney

BY: /s/ Jennifer Hay Zacks  
JENNIFER H. ZACKS  
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Date: November 28, 2005

**CERTIFICATE OF SERVICE**

I, Jennifer H. Zacks, Assistant U.S. Attorney, hereby certify that a true copy of the foregoing Motion for Final Order of Forfeiture, as well as a proposed Final Order of Forfeiture, was served upon Charles P. McGinty, Esq., 408 Atlantic Avenue, Third Floor, Boston, MA 02110, as counsel for the Defendant, by first class mail, postage prepaid.

/s/ Jennifer Hay Zacks  
Jennifer H. Zacks  
Assistant U.S. Attorney

Date: November 28, 2005